

**TAX DEED**

**DATED**

**relating to the sale and purchase  
of all the issued share capital  
of The Thames Valley Community Rehabilitation Company Limited**

**THE SECRETARY OF STATE FOR JUSTICE**

**and**

**MTCNOVO LIMITED**

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**THIS DEED** is made on

**BETWEEN:**

- (1) **THE SECRETARY OF STATE FOR JUSTICE** of 102 Petty France, London SW1H 9AJ (the **Covenantor**); and
  - (2) **MTCNOVO LIMITED** (registered number 09284837) whose registered office is at Sherard Building, Edmund Halley Road, Oxford Science Park OX4 4DQ (the **Purchaser**),
- each a **party** and together, the **parties**.

**BACKGROUND:**

- (A) By an agreement dated \_\_\_\_\_ and made between the Covenantor, the Purchaser and Purchaser's Guarantors (the **Agreement**), the Purchaser has agreed to complete today the purchase from the Covenantor of the Shares (as defined in the Agreement) in reliance *inter alia* upon the covenants contained in this deed;
- (B) By an agreement dated \_\_\_\_\_ and made between the Covenantor, the Purchaser and Purchaser's Guarantors (the **Acquired CRC Agreement**), the Purchaser has also agreed to complete today the purchase from the Covenantor of shares in The London Community Rehabilitation Company Limited (the **Acquired CRC**); and
- (C) The Covenantor and the Purchaser have also agreed to enter into a tax deed relating to the purchase of shares in the Acquired CRC (the **Acquired CRC Tax Deed**)

**IT IS AGREED** as follows:

**1. INTERPRETATION**

- 1.1 In this deed, unless the contrary intention appears, words and expressions defined in the Agreement have the same meaning and any provisions in the Agreement concerning matters of construction or interpretation shall also apply and:

**Accounts Relief** means any Relief (other than a right to a repayment of Taxation) which is taken into account in the Statement of Financial Position as an asset;

**Acquired CRC Group Relief** means a Group Relief arising to any Acquired CRC as a result of a Transaction or Transactions occurring (or deemed to occur) on or before Completion or in respect of a period ended on or before Completion;

**Business Day** means a day (other than a Saturday or Sunday) on which banks are generally open in London for normal business;

**CTA 2010** means the Corporation Tax Act 2010;

**Covenantor's Group** means the Covenantor and those companies (other than the Company) which may be treated for relevant Taxation purposes as being, or as having at any time been, either a member of the same group of companies as the Covenantor or otherwise associated with the Covenantor;

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**Covenantor's Relief** means a Relief arising to the Company as a result of a Transaction or Transactions occurring (or deemed to occur) on or before Completion or in respect of a period ended on or before Completion but that is neither:

- (a) an Accounts Relief; nor
- (b) a repayment of Taxation which is taken into account in the Statement of Financial Position as an asset;

**Group Relief** means all or any of the following:

- (a) losses or other amounts eligible for surrender under Part 5 CTA 2010; and
- (b) a tax refund eligible for surrender under section 963 CTA 2010;

**Overprovision** means:

- (a) a provision for Taxation in the Statement of Financial Position that is, insofar as it relates to the Company, too great; or
- (b) the amount by which any liability to Taxation of the Company or any Acquired CRC is reduced or extinguished as a result of the utilisation of any Covenantor's Relief excluding any Covenantor's Relief to the extent that it has otherwise been set off against any liability to make an actual payment of Taxation in respect of which the Purchaser would have been able to make a claim against the Covenantor under this deed, the Agreement, any Acquired CRC Tax Deed or any Acquired CRC Agreement;

**Post Completion Relief** means a Relief arising to the Company which is neither a Covenantor's Relief, an Accounts Relief nor a right to a repayment of Taxation that has been taken into account in the Statement of Financial Position as an asset;

**Potential Liability** means a liability to or claim for Taxation or a non-availability, loss, reduction or cancellation of any Relief which may result in a claim against the Covenantor under this deed, or which may do so if clause 5 were not to apply, or which may result in a claim against the Covenantor for breach of a Warranty relating to Taxation;

**Purchaser's Group** means the Purchaser and all its subsidiaries, all companies of which the Purchaser is a subsidiary and all subsidiaries of such companies, but excluding the Company;

**Relevant Period** means any period commencing prior to Completion in respect of which the Company is required to make a return or a payment to a Taxation Authority;

**Relevant Tax Affairs** means any matter relevant to the tax affairs of the Company for any Relevant Period, including (without limitation) the preparation and submission of all notices, claims, consents, elections, returns and computations, the preparation and submission of all correspondence relating to such notices, claims, consents, elections, returns and computations and the negotiation and agreement of all matters relevant to the tax position of the Company for any Relevant Period;

**Relief** means any loss, allowance, credit, relief, deduction or set-off in respect of, or taken into account, or capable of being taken into account, in the calculation of a liability to, Taxation or any right to a repayment of Taxation;

**Saveable Amount** means, in respect of a Relief, the amount by which a liability to Taxation may be decreased by the use of that Relief;

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**subsidiary** means a subsidiary for the purposes of the Companies Act 2006 and **subsidiaries** shall be construed accordingly;

**Taxation** means all forms of taxation, whether of the United Kingdom or elsewhere, including income tax (including income tax or amounts equivalent to or in respect of income tax required to be deducted or withheld from or accounted for in respect of any payment), corporation tax, advance corporation tax, capital gains tax, inheritance tax, value added tax, customs and other import or export duties, excise duties, transfer taxes or duties, National Insurance, social security or other similar contributions, and any interest, penalty, surcharge or fine relating to such taxation;

**Taxation Authority** means any taxing or other authority (whether within or outside the United Kingdom) competent to impose, administer or collect any Taxation;

**Transaction** means any transaction, event, circumstance, expiry of anytime period, act or omission (or any transaction, event, circumstance, expiry of anytime period, act or omission deemed to occur for Taxation purposes);

**VAT** means value added tax charged under or pursuant to VATA 1994 or the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

**VATA 1994** means the Value Added Tax Act 1994.

1.2 In this deed, references to:

**profits** include income, profits or gains of any description and from any source;

profits earned on or before a certain date or in respect of a certain period include profits treated as, or deemed to be, earned on or before that date or in respect of that period for Taxation purposes;

**profits earned** include profits earned, accrued or received (or treated as, or deemed to be, earned, accrued or received for Taxation purposes);

a **repayment of Taxation** include any repayment supplement or interest in respect of it; and

**Taxation** include, in a case where Taxation for which the Company is liable is discharged by another person, the amount corresponding to that Taxation for which the Company is, after that discharge, liable.

1.3 For the purposes of this deed, the Company shall be deemed to be liable for a payment of Taxation, and to make that payment of Taxation, if the Company would be liable for a payment of Taxation but for the use or setting off against profits or against a liability to pay Taxation of a Post Completion Relief or Accounts Relief.

1.4 General words used in this deed shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.

1.5 In this deed, unless the contrary intention appears, a reference to a clause or subclause is a reference to a clause or subclause of this deed and references to paragraphs or to subparagraphs are to paragraphs or subparagraphs of Schedule 1 of this deed.

1.6 The headings in this deed do not affect its interpretation and unless otherwise specified, a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted.

**2. COVENANT**

2.1 The Covenantor covenants with the Purchaser that, subject to the following provisions of this deed, the Covenantor will pay to the Purchaser, to the extent possible by way of repayment of the purchase price for the Shares (but not so as to limit the amount payable where not wholly possible), an amount equal to:

- (a) any payment of Taxation made or to be made by the Company the liability for which arises as a result of any Transaction or Transactions occurring on or before Completion (other than Taxation arising in respect of income, profits or gains earned after Completion as a result of any such Transaction or Transactions) or in respect of any profits earned on or before Completion;
- (b) any right to a repayment of Taxation to the Company to the extent that the right to the repayment has been taken into account in the Statement of Financial Position as an asset but is not available or is lost, reduced or cancelled;
- (c) in any case where any Accounts Relief is not available, or is lost, reduced or cancelled the amount of Taxation which (on the basis of the rates prevailing on the date of this deed) would have been saved if that Accounts Relief were not lost, non-available, reduced or cancelled; and
- (d) any out-of-pocket costs or expenses reasonably and properly incurred by the Purchaser or the Company solely and directly in connection with: (i) any payment of a Potential Liability; (ii) any action taken in avoiding, resisting or settling any such Potential Liability; or (iii) any successful action taken by the Purchaser under this deed,

whether or not the Company is or may be entitled to claim reimbursement of the payment from any person.

2.2 For the purposes of this deed (other than clause 3), all rights and liabilities of the parties shall be calculated on the assumption (if not actually the case) that the date of Completion is the end of an accounting period and that the Statement of Financial Position are the accounts of the Company for an accounting period ending on that date.

**3. PAYMENT**

3.1 Subject to the aggregate agreed liability of the Covenantor under this deed and the Agreement a payment to be made by the Covenantor under clause 2 shall be made (i) within ten Business Days from the date on which notice setting out the amount due is received by the Covenantor from the Purchaser or the Company in accordance with subparagraph 2.1 of Schedule 1 or (ii) if later:

- (a) in the case of a payment of Taxation within subclause 2.1(a), on the date which is two Business Days prior to the last date on which that payment of Taxation may be made in order to avoid incurring a liability to interest or penalties;
- (b) in the case of a right to a repayment of Taxation within subclause 2.1(b), the date on which the repayment would have been available were it not for the non-availability, loss, reduction or cancellation;
- (c) in the case of the non-availability, loss, reduction or cancellation of an Accounts Relief within subclause 2.1(c), the last date on which payment of any amount of Taxation which would not have been payable but for that non-availability, loss, reduction or cancellation of an Accounts Relief can be made without the Company incurring a liability to interest or penalties; and

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- (d) in the case of a deemed payment of Taxation referred to in subclause 1.3, on the date which is one Business Day prior to the last date on which the Company would have been due to make an actual payment of Taxation, without incurring a liability to interest or penalties, had it not been for the use of the Post Completion Relief or Accounts Relief.

3.2 Unless otherwise expressly stated (or as otherwise agreed in the case of a given payment), each payment to be made to the Purchaser under this deed shall be made in pounds sterling.

**4. EXCLUSIONS**

The covenants contained in clause 2 shall not extend to any liability or related costs or expenses otherwise falling within this deed or a Tax Warranty Claim to the extent that:

- (a) provision or reserve for the liability is made or the liability is otherwise taken into account, or its actual or assumed payment or discharge is taken into account, in the Statement of Financial Position; or
- (b) the liability is:
  - (i) interest arising from a failure to pay Taxation to a Taxation Authority within a reasonable time after the Covenantor has made a payment of an amount in respect of that liability to Taxation under clause 3; or
  - (ii) interest attributable to a period after Completion on an amount where the covenants contained in this deed do not extend to that amount by virtue of subclause 4(a); or
  - (iii) a penalty or fine incurred after Completion in connection with such an amount; or
- (c) it would not have arisen (or would have been reduced) but for a change in legislation or a change in the interpretation of legislation on the basis of case law made after Completion (whether relating to Taxation, the rate of Taxation or otherwise) or any amendment to or the withdrawal of any practice previously published by a Taxation Authority, in either case occurring after Completion, whether or not that change, amendment or withdrawal purports to be effective retrospectively in whole or in part; or
- (d) it would not have arisen (or would have been reduced) but for a voluntary act or omission carried out or effected by the Purchaser or the Company after Completion other than an act or omission which:
  - (i) is in the ordinary course of business as carried on by the Company at Completion and could not reasonably have been avoided; or
  - (ii) the Company was legally committed to do, or omit to do, under a commitment that existed on or before Completion; or
- (e) it would not have arisen (or would have been reduced) but for the Company entering into the Services Agreement; or
- (f) it has been made good by insurers or otherwise compensated for without cost to the Purchaser or the Company; or
- (g) it arises in connection with any failure to make an instalment payment or any failure to make a sufficient instalment payment under the Corporation Tax (Instalment Payments) Regulations 1998 by the Company (or any other designated person); or

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- (h) any income, profits or gains to which the payment is attributable were actually earned or received by or actually accrued to the Company on or before Completion and retained by the Company at Completion but were not reflected in the Statement of Financial Position; or
- (i) it arises as a consequence of any failure by the Purchaser or the Company to comply with any of their respective obligations under this deed; or
- (j) it arises as a result of the failure or omission of the Company to make any valid claim, election, surrender or disclaimer, to give any valid notice or consent or to do any other thing under the provisions of any enactment or regulation relating to Taxation after Completion, the making, giving or doing of which was taken into account in computing the provisions for Taxation in the Statement of Financial Position and of which the Purchaser was given sufficient notice in writing by the Covenantor to give the Purchaser reasonable opportunity to ensure that the relevant claim, election, surrender, notice, consent or other thing was made, given or done within any applicable time limit; or
- (k) it arises as a result of any claim, election, surrender, revocation or disclaimer made or notice or consent given after Completion by the Company or any member of the Purchaser's Group under the provisions of any enactment or regulation relating to Taxation other than any claim, election, surrender, revocation, disclaimer, notice or consent assumed to have been made, given or done in computing the amount of any allowance, provision or reserve in the Statement of Financial Position or which is made at the prior request of the Covenantor pursuant to its rights under this deed; or
- (l) it arises as a result of any change after Completion of the date to which the Company makes up its accounts or in the bases, methods or policies of accounting of the Company other than a change which is reported by the auditors for the time being of the Company to be necessary in their opinion because such bases, methods or policies of accounting as at the date of Completion are not in accordance with any published accounting practice or principle then current; or
- (m) it would not have arisen (or would have been reduced) but for a cessation, or any change in the nature or conduct, of any trade carried on by the Company at Completion, being a cessation or change occurring on or after Completion.

**5. LIMITATIONS**

The provisions of paragraph 4 of Schedule 4 of the Agreement shall have effect as if expressly incorporated into this deed.

**6. TIME LIMIT**

The liability of the Covenantor to make any payment under this deed shall cease on the fourth anniversary of Completion except in respect of any claim of which the Purchaser gives notice to the Covenantor before that date specifying (in reasonable detail) the nature of the claim and the amount claimed and in relation to which proceedings have been commenced prior to the fifth anniversary of Completion.

**7. OVERPROVISIONS**

7.1 The Purchaser shall procure that the amount of any Overprovision shall:

- (a) first be set against any payment then due from the Covenantor under this deed; and
- (b) to the extent there is an excess, be paid by the Purchaser to the Covenantor.

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- 7.2 The Purchaser shall notify the Covenantor if it or any member of the Purchaser's Group becomes aware that there is an Overprovision within ten Business Days of becoming so aware. The Covenantor or the Purchaser may at any time on or before the fourth anniversary of Completion request the auditors for the time being of the Company to report as to whether there has been an Overprovision and/or to report as to whether in their opinion the amount previously treated as an Overprovision and dealt with in accordance with subclause 7.1 was too little or too great, and the Purchaser shall instruct such auditors to deal expeditiously with the production of the report and shall provide, or procure that the Company provides, any information or assistance required for the purpose of enabling the auditors to produce such report.
- 7.3 If, following a request under and the issuance of the report in accordance with subclause 7.2, the amount previously treated as an Overprovision and dealt with in accordance with subclause 7.1 proves to be:
- (a) too little, then the Purchaser shall apply any shortfall in accordance with subclause 7.1; or
  - (b) too great, then the Covenantor shall pay the Purchaser any excess.

**8. CORRESPONDING BENEFIT**

- 8.1 If the Company (or any successor to all or any part of its business) or the Purchaser receives a benefit or makes a saving which it would not have received or made but for the circumstances giving rise to a claim under this deed, then:
- (a) the Purchaser shall procure that full details of the benefit or saving are given to the Covenantor as soon as practicable and in any event within ten Business Days of receipt of the benefit or saving in question;
  - (b) the Purchaser shall procure that, as soon as practicable and in any event within ten Business Days of the date when the benefit is received or saving in question is made (being the date when the Taxation would otherwise have been due to avoid interest or penalties which are not due by virtue of the saving), any payment already made by the Covenantor in respect of the claim is forthwith repaid to the Covenantor up to the amount of the benefit or saving and that any interest or repayment supplement received relating to the benefit or saving so far as repaid is also forthwith paid to the Covenantor; and
  - (c) any amount of the benefit or saving (including any interest or repayment supplement) that is not so paid to the Covenantor shall be carried forward and set off against any future payment or payments which become due from the Covenantor under this deed.
- 8.2 If the Company or the Purchaser is entitled to receive a benefit or make a saving, as referred to in subclause 8.1, it shall use all reasonable endeavours to obtain any such benefit or make such saving within a reasonable time.
- 8.3 If the Purchaser or the Company is or may be entitled to recover from a person (including any Taxation Authority, but excluding the Covenantor) a sum in respect of any claim which gives rise to a liability on the part of the Covenantor under this deed, then:
- (a) the Purchaser or the Company shall give the Covenantor full details of the entitlement as soon as practicable and in any event within ten Business Days of the Purchaser or the Company becoming aware of those details;
  - (b) the Purchaser shall at the request of the Covenantor and at the Covenantor's expense take all appropriate steps to recover or to procure the recovery of the sum, keeping the Covenantor fully informed of the progress of any action taken;

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- (c) the Purchaser shall as soon as practicable and in any event within ten Business Days of recovery of any sum, pay an amount equal to that sum to the Covenantor including any interest or repayment supplement received on or in respect of the amount payable to the Covenantor so far as it does not exceed any payments already made by the Covenantor in respect of the relevant claim and pay to the Covenantor any interest or repayment supplement received on or in respect of the amount payable to the Covenantor; and
- (d) so far as not paid to the Covenantor, the amount of the sum recovered (including any interest or repayment supplement) shall be carried forward and set against any future payment or payments which become due from the Covenantor under this deed.

8.4 If the Company is or may be entitled to receive from any Taxation Authority a repayment or credit in respect of Taxation relating to any period ended on or before Completion then:

- (a) the Purchaser shall give the Covenantor full details of the entitlement as soon as practicable and in any event within ten Business Days of the Purchaser becoming aware of the entitlement arising;
- (b) the Purchaser shall at the request of the Covenantor take all appropriate steps to procure that the repayment or credit shall be obtained, keeping the Covenantor fully informed of the progress of any action taken; and
- (c) an amount equal to the repayment or credit (including any repayment supplement or interest) received by the Purchaser or the Company less any amount taken into account in the Statement of Financial Position in respect of the repayment or credit shall be paid by the Purchaser to the Covenantor within five Business Days of receipt.

**9. MITIGATION**

9.1 No liability shall arise for the Covenantor under this deed in respect of a liability to Taxation unless, and then only to the extent that, the amount of that liability to Taxation exceeds the Saveable Amount in respect of:

- (a) any Covenantor's Relief available to mitigate that liability to Taxation; or
- (b) any Covenantor's Relief which would have been available to mitigate that liability to Taxation had it not been used against one or more Taxation liabilities which do not give rise to a liability for the Covenantor under this deed (save to the extent that the use of such Covenantor's Relief has resulted in a payment to the Covenantor pursuant to subclause 7.1); or
- (c) any Acquired CRC Group Relief available to mitigate that liability to Taxation; or
- (d) any Acquired CRC Group Relief which would have been available to mitigate that liability to Taxation had it not been used against one or more Taxation liabilities which do not give rise to a liability for the Covenantor under this deed (save to the extent that the use of such Covenantor's Relief has resulted in a payment to the Covenantor pursuant to subclause 7.1) or under any Acquired CRC Tax Deed (save to the extent that the Purchaser has made a payment to the Covenantor pursuant to subclause 7.1 of any Acquired CRC Tax Deed).

9.2 The Purchaser shall, if the Covenantor shall at any time request and at the Covenantor's expense, deliver to the Covenantor a report from the Company's auditors for the time being confirming that in their opinion all such Reliefs have been used in accordance with subclause 9.1.

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- 9.3 The Purchaser shall permit the Covenantor to reduce or eliminate (in whole or in part) any liability for which the Covenantor would otherwise be liable under this deed by surrendering or procuring the surrender to the Company of Group Relief, or a tax refund or by making or procuring the making of any appropriate election as may be specified by the Covenantor in its absolute discretion to the extent, in each case, permitted by law but without any payment being made by the Company in consideration of such surrender or in connection with such election. The Purchaser shall procure that the Company takes all such steps as are reasonably necessary to enable the Covenantor to effect such surrenders or make such an election.

**10. CONDUCT OF TAX AFFAIRS**

The provisions of Schedule 1 shall have effect in relation to the conduct after Completion of the tax affairs of the Company.

**11. PURCHASER'S COVENANT**

- 11.1 For the purposes of this clause, **Purchaser's Group** shall also include any company which is, or has at any time been, treated for the purposes of any Taxation as being a member of the same group of companies as the Purchaser or as being associated with the Purchaser and references to **Relevant Company** shall mean the Company or any member or members of the Purchaser's Group.

- 11.2 The Purchaser covenants with the Covenantor to pay to the Covenantor an amount equal to any of the following:

- (a) any liability or increased liability to Taxation of any member or members of the Covenantor's Group which arises as a consequence of or by reference to any of the following occurring or being deemed to occur at any time after Completion:
- (i) the disposal by any Relevant Company of any asset or of any interest in or right over any asset;
  - (ii) any Relevant Company ceasing to be resident in the United Kingdom for the purposes of any Taxation; or
  - (iii) any Relevant Company failing to pay the whole of any amount of Taxation to which it is liable where (and to the extent that) the liability for that Taxation arises in circumstances such that the Purchaser would not have been entitled to make a claim against the Covenantor under clause 2 of this deed in respect of that Taxation had it been paid by the Relevant Company.

- 11.3 The Purchaser shall pay the Covenantor an amount equal to any out-of-pocket costs or expenses reasonably and properly incurred by the Covenantor or any other member or members of the Covenantor's Group in connection with any such liability or increased liability to Taxation (or claim therefore) as is mentioned in subclause 11.2 or in taking any action under this clause.

- 11.4 Any payment which the Purchaser is obliged to make under subclause 11.2 shall be made on the date which is one Business Day prior to the last day on which the relevant payment of Taxation is due to be made in order to avoid incurring a liability to interest or penalties.

**12. GENERAL**

- 12.1 Clauses 12 (Notices), 13 (Assignment), 14 (Payments), 17 (Governing Law and Jurisdiction) and 18 (Language) of the Agreement shall have effect as if expressly incorporated into this deed.

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- 12.2 This deed may be executed in any number of counterparts all of which when taken together shall constitute one and the same deed and any party may enter into this deed by executing a counterpart.
- 12.3 Except as expressly stated in this deed, a person who is not a party to this deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

**IN WITNESS** of which this deed has been executed and delivered on the date which appears first on page 1.

**SCHEDULE 1**

**CONDUCT OF THE TAX AFFAIRS OF THE COMPANY**

**1. CONDUCT OF TAX AFFAIRS**

- 1.1 This paragraph 1 is subject to paragraphs 2 and 3.
- 1.2 Subject to the other provisions of this schedule, the Purchaser shall, at its own expense, have the conduct of the Relevant Tax Affairs.
- 1.3 Where any correspondence, return, ancillary information, statements, reports, accounts or other documentation is or are required to be submitted to a Taxation Authority in relation to a Potential Liability, the Purchaser shall procure that a draft shall be submitted to the Covenantor marked for the attention of MoJ Tax Team, Corporate Finance, Ministry of Justice, 10th Floor, 102 Petty France, London SW1H 9AJ (or such other person or advisers as the Covenantor shall nominate) at least 15 Business Days before its intended submission (or if there is a statutory or administrative time limit for submitting such correspondence, return, ancillary information, statements, reports, accounts or other documentation, such draft shall be sent to the Covenantor as aforesaid at such time as is reasonable in the circumstances, before its intended submission).
- 1.4 The Purchaser shall procure that the Company shall:
- (a) firstly, use Covenantor's Reliefs in the Company; and
  - (b) secondly, to the extent any Covenantor's Reliefs are Group Reliefs, surrender such Covenantor's Reliefs to the Acquired CRC,
- in priority to any Post Completion Relief to the extent permissible by law.
- 1.5 The Purchaser shall procure that the Company shall accept any surrender of any Acquired CRC Group Relief to the Company or make any necessary election in respect of any Acquired CRC Group Relief to the extent permitted by law.
- 1.6 The Purchaser shall procure that the Covenantor shall be kept fully informed of any negotiations regarding the Taxation liabilities of the Company relating to the Potential Liability and that the Covenantor is provided with:
- (a) a copy of all correspondence or other documentation received by the Purchaser or the Company (including a note of any material communications or discussions not in written form) in respect of the Potential Liability within ten Business Days of receipt (or such communications or discussions taking place, as appropriate); and
  - (b) notification of any proposed meeting with the relevant Taxation Authority, together with an agenda for that meeting, as soon as reasonably practicable. Where any such meeting is to take place between the Purchaser or the Company and the relevant Taxation Authority, the Covenantor shall be entitled to send a representative to that meeting.
- 1.7 The Purchaser shall procure that the Covenantor and its advisers shall be given access to such information and provided with such assistance (including assistance from employees of the Purchaser and the Company and access to any external advisors appointed by the Purchaser) as is reasonable and necessary to determine the accuracy or to review any correspondence, return, ancillary information, statements, reports, accounts submitted to it pursuant to subparagraph 1.6 or to

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consider any action proposed to be taken by the Company, including any proposed negotiation, agreement or compromise in relation to any Potential Liability.

- 1.8 If the Covenantor sends to the Purchaser any written requests for documents or any written requests for responses to any questions in respect of a Potential Liability, the Purchaser shall, provided such requests are reasonable, provide such documentation or answer such questions (which answers shall be in written form), as the case may be, within 20 Business Days of receipt of such request or question.
- 1.9 If, within 15 Business Days (or such lesser time as is reasonable if there is a statutory or administrative time limit for making submissions to the relevant Taxation Authority) of receiving any draft computation, return, ancillary information accounts or correspondence or details of negotiations or proposed agreements or compromises referred to in the subparagraphs above, the Covenantor makes any representations to the Purchaser those representations shall, except to the extent that they are unreasonable, be reflected in such tax computations, returns, ancillary information, statements, reports, accounts; or correspondence, negotiations, agreements or compromises. If the Covenantor does not make any representations in the appropriate time as referred to above, or if it makes such representations which are reflected in such revised drafts, the Covenantor shall be deemed to have agreed the contents of such drafts and the Purchaser shall be free to make such submissions to the relevant Taxation Authority.
- 1.10 The Purchaser will not, and will procure that the Company will not, compromise or settle any Potential Liability or agree any matter which may affect the outcome of any dispute or negotiation with any Taxation Authority in relation to any Potential Liability without the written consent of the Covenantor.

**2. CONDUCT OF TAX CLAIMS**

- 2.1 If the Purchaser or the Company receives any letter, enquiry, notice, demand, determination, assessment or other document, or a Taxation Authority takes any action, from which it appears that the Company may incur or suffer a Potential Liability, or if the Purchaser or the Company is, or becomes, aware of any fact which affects, or which may affect, any assessment which may give rise to a Potential Liability, the Purchaser shall notify the Covenantor of the relevant facts as soon as practicable and in any case involving an assessment with a time limit for appeal at least ten Business Days before the expiry of that time limit and in any other case, in any event within ten Business Days of receipt thereof.
- 2.2 On the giving of the notice referred to in subparagraph 2.1, the Covenantor shall be entitled (but not later than 15 Business Days after the receipt of that notice) to elect to resist the Potential Liability in the name of the Company and have the conduct of any appeal, dispute, compromise or defence of the Potential Liability and of any incidental negotiations relating thereto subject to the Covenantor having indemnified the Purchaser and the Company to their reasonable satisfaction against all charges, costs and expenses which they may incur in resisting the Potential Liability and in complying with their obligations under this subparagraph 2.2.
- 2.3 If the Covenantor elects to resist the Potential Liability in accordance with subparagraph 2.2, the Covenantor shall keep the Purchaser reasonably informed of the conduct of any appeal, dispute, compromise or defence of the Potential Liability and of any incidental negotiations relating thereto.
- 2.4 For the avoidance of doubt, if the Covenantor makes an election under paragraph 2.2, the obligations of the Purchaser under paragraph 1 shall continue to have effect.

**3. DISPUTES CONCERNING RELEVANT TAX AFFAIRS**

3.1 Any dispute arising as to whether comments made by the Covenantor under subparagraph 1.9 are reasonable, the form of any document to be submitted to any relevant Taxation Authority, or the basis on which the parties should proceed in relation to the negotiation or agreement of any matter relating to the Relevant Tax Affairs (a **Tax Affairs Dispute**) shall be resolved as follows:

- (a) a party may give notice to the other party that a Tax Affairs Dispute has arisen (a **Tax Affairs Dispute Notice**);
- (b) the parties to the Tax Affairs Dispute will negotiate in good faith for a period of 10 Business Days following the date of the Tax Affairs Dispute Notice in an effort to resolve the Tax Affairs Dispute;
- (c) if the Tax Affairs Dispute has not been resolved following the expiry of the period of 10 Business Days from the date of the Tax Affairs Dispute Notice:
  - (i) either party may refer the Tax Affairs Dispute for determination by a member of a firm of chartered accountants with a substantial practice in the field of corporate Taxation (the **Expert**);
  - (ii) the Expert shall be appointed either by agreement between the parties or (if they do not agree within five Business Days of the party wishing to make the reference notifying the other of the proposed reference or if the Expert is or becomes unable or unwilling to act) on the application of any party to the President for the time being of the Institute of Chartered Accountants in England and Wales;
  - (iii) the Expert shall be independent of the parties and shall decide the Tax Affairs Dispute as an expert (and not as an arbitrator) and his decision shall be final and binding on the parties and not subject to appeal, except in the case of manifest error;
  - (iv) the Expert shall decide the procedure to be followed in the determination;
  - (v) the parties to the expert determination shall make all relevant information available to the Expert, copied to the other party to the expert determination; and
  - (vi) the costs of the determination, including the fees and expenses of the Expert and, where applicable, of the Institute of Chartered Accountants in England and Wales (but excluding the parties' own costs, which shall be borne by the party incurring those costs) shall be borne by the parties in such proportions as the Expert considers to be fair and reasonable in all the circumstances, and pending the decision of the Expert as to the costs of the determination, such costs shall be borne equally by the parties.

3.2 Any correspondence, notice, document, comments or other information (**Information**) to be provided by any party to any other party pursuant to paragraph 1 or paragraph 2 (including any Information provided to or by any Expert) shall be provided on the following basis:

- (a) the Information shall be held in complete confidence by each of the parties (and, where applicable, the Expert) and shall not be disclosed to any other person except:
  - (i) as expressly contemplated by paragraph 1 or paragraph 2; or
  - (ii) to the auditors and to the legal advisors of that party (to whom the confidentiality obligations set out in this agreement shall extend); or

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- (iii) where that party is under a legal or regulatory obligation to make such a disclosure, but limited to the extent of that legal or regulatory obligation; or
  - (iv) to the extent that it is already in the public domain (other than as a result of a party's breach of this agreement); or
  - (v) with the prior written consent of the party who provided the Information, such consent not to be unreasonably withheld.
- (b) there shall be no obligation to provide Information that is subject to legal professional privilege (**Privileged Information**);
- (c) to the extent that any Privileged Information is provided, the parties agree that:
  - (i) the Privileged Information is subject to legal professional privilege and provision of the Privileged Information in accordance with paragraph 1 or paragraph 2 will not amount to a waiver of that legal professional privilege;
  - (ii) the Privileged Information will be used only for the purpose contemplated by paragraph 1 and/or paragraph 2 (as applicable) and not for any other purpose; and
  - (iii) the recipient of any Privileged Information will inform the provider of the Privileged Information of any request or order for disclosure of any of the Privileged Information, save where required by law not to do so; and
- (d) each party will take all reasonable steps to ensure that its employees and/or officers and/or agents to whom any Information is disclosed is, in advance of disclosure, made aware of and required to comply with, the terms of the undertakings contained in this paragraph 3.

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**EXECUTED as a DEED by MTCNOVO LIMITED**

acting by \_\_\_\_\_, a director

in the presence of:

.....  
Director

Witness's Signature .....

Name: .....

Address: .....

.....

**THE CORPORATE SEAL of  
THE SECRETARY OF STATE FOR JUSTICE**

hereunto

affixed is authenticated by:

.....  
Signature  
Authorised by  
**THE SECRETARY OF STATE FOR JUSTICE**